

### **REMARKS**

Upon entry of the foregoing amendment, Claims 50-63 are pending in the application. Claims 34-49 have been canceled. New Claims 50-63 have been added. Support for new Claims 50-53 can be found in original Claims 1-6. Support for new Claims 54-56 can be found in the specification on page 5, lines 32-37. Support for new Claim 57 can be found in the specification on page 5, lines 27-31. Support for new Claims 58-60 can be found in original Claim 8. Support for new Claim 61 can be found in the specification on page 9, lines 3-5. Support for new Claims 62-63 can be found in original Claims 9 and 15, respectively. No new matter has been introduced.

In the Office Action of May 27, 2009, the Examiner set forth a number of grounds for rejection. These grounds are addressed individually and in detail below.

#### **Claims Rejections Under 35 U.S.C. § 112, First Paragraph**

Claims 37, 38 and 40 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement for the reasons set forth on page 2.

Claims 37, 38 and 40 have been canceled. The rejections are now moot.

#### **Claim Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claim 39 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention for the reasons set forth on pages 2-3 of the Office Action. Applicants respectfully traverse the rejection.

Claim 39 has been canceled. The rejection is now moot.

**Claims Rejections Under 35 U.S.C. § 102(b)**

Claims 34-36 and 38-47 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by Taniguchi et al. (WO 99/62987, English language equivalent U.S. 6,541,123 B1), (hereinafter "Taniguchi") for the reasons set forth on page 3-4 of the Office Action. Claims 34-36 and 38-47 have been canceled. New claims 50-63 have been added. Applicants respectfully submit that the new claims are not anticipated by Taniguchi.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent Claim 50 is directed to a polyolefin single or multi-layer film, comprising at least one core layer comprising: (a) a polypropylenic (PP) component; and (b) a polyethylenic (PE) component or a polystyrenic (PS) component, wherein the dynamic loss modulus ( $E''$ ) of the film measured at 3 Hz and 25°C is from about 28 MPa to about 136 MPa in the transverse direction (TD) and/or from about 73 MPa to about 135 MPa in the machine direction (MD), wherein the dynamic storage modulus ( $E'$ ) of the film measured at 3 Hz and 25°C is from about 630 MPa to about 2800 MPa in the TD and/or from about 1300 MPa to about 3000 MPa in the MD, and wherein said film is biaxially oriented.

In contrast, Taniguchi generally describes a polyolefin stretch packaging film having a storage modulus ( $E'$ ) from  $5.0 \times 10^8$  dyn/cm<sup>2</sup> to  $5.0 \times 10^9$  dyn/cm<sup>2</sup>, as measured by dynamic viscoelasticity measurements at a frequency of 10 Hz and at a temperature of 20°C (col. 5, lines 58-65). Because  $1 \times 10^7$  dyn/cm<sup>2</sup> = 1 MPa, the packaging film of Taniguchi has an  $E'$  of 50-500

MPa. Taniguchi does not disclose a film having a dynamic storage modulus ( $E'$ ) of about 630-2800 MPa in the TD and/or of about 1300-3000 MPa in the MD, as recited the instant Claim 50.

Although the  $E'$  of Taniguchi's film was measured under conditions (10 Hz and 20°C) that are different from the conditions recited in instant Claim 50 (3 Hz and 25°C), a person of ordinary skill in the art would understand that  $E'$  generally decreases with an increase of measuring temperature and a decrease in frequency (See Declaration of Michael Taylor). For example, Table 1 of Taniguchi shows that the value of  $E'$  at 0 °C is always higher than the value of  $E'$  at 20 °C. Therefore, if Taniguchi's film is measured under conditions recited in the instant Claim 50 (i.e., at 3 Hz and 25°C instead of 10 Hz and 20°C), it would have an  $E'$  value that is even lower than the 50-500 MPa range measured at 10 Hz and 20°C (See Declaration of Michael Taylor). In addition, Taniguchi also fails to disclose a film that is "biaxially oriented," as recited in the instant Claim 50.

Accordingly, Taniguchi does not anticipate Claim 50 because it fails to disclose each and every element of Claim 50. Claims 51-63 are patentable over Taniguchi because they depend from Claim 50 and recite additional patentable subject matter.

In view of the foregoing, Applicants respectfully submit that these grounds of rejection have been obviated, and withdrawal of the rejection under 35 U.S.C. §102, is respectfully requested.

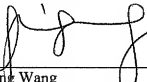
### CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is invited to contact Applicants' counsel, Ping Wang, (Reg. No. 48,328), at 202.842.0217.

Respectfully submitted,

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